

RESPONSE TO RESTRICTION REQUIREMENT

Serial Number: 10/589,216

Filing Date: January 15, 2008

Title: Inhibiting Cav3 Isoforms and the 25B Splice Variants for the Diagnosis and Treatment of Cancer

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Dkt: 1036.115US1**REMARKS**

In the Restriction Requirement mailed March 9, 2010, the Examiner has restricted the claims to one of the following inventions under 35 U.S.C. 121:

- I. Group 1, claims 1, 3-5, drawn to an antibody to Cav3.1 isoform or its splicing variant thereof, and a method for detecting cancer, using said antibody.
- II. Groups 2-3, claims 1-4, drawn to an antibody to Cav3.2 or Cav3.3 isoform or its splicing variant thereof. An antibody to each isoform constitutes a single distinct invention, and not a species.
- III. Groups 4-5, claim 5, drawn to a method for diagnosis of cancer, comprising detecting Cav3.2 OR Cav3.3 isoform or its splicing variant thereof. A method detecting each isoform constitutes a single distinct invention, and not a species.
- IV. Groups 6-8, claims 6-7, 11-12, drawn to a method for treating cancer, or inhibiting calcium entry into cells, using an antibody to Cav3.1, Cav3.2 or Cav3.3 isoform or its splicing variant thereof. A method using an antibody to each isoform constitutes a single distinct invention, and not a species.
- V. Group 9, claims 7-12, drawn to method for treating or preventing a cancer, or inhibiting calcium entry into cells, using a T type calcium channel inhibitor, which is a tetrahydronaphthalene derivative or mibepradil.
- VI. Groups 10-12, claim 13, drawn to a method for treating autoimmune disease, using an antibody to Cav3.1, Cav3.2 or Cav3.3 isoform or its splicing variant thereof. A method using an antibody to each isoform constitutes a single distinct invention, and not a species.
- VII. Group 13, claims 13, drawn to method for treating autoimmune disease, using a T type calcium channel inhibitor, which is a tetrahydronaphthalene derivative or mibepradil.
- VIII. Groups 14-16, claim 14, drawn to a method for preventing graft rejection, using an antibody to Cav3.1, Cav3.2 or Cav3.3 isoform or its splicing variant thereof. A method using an antibody to each isoform constitutes a single distinct invention, and not a species.

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- IX. Group 17, claims 14, drawn to method for preventing graft rejection, using a T type calcium channel inhibitor, which is a tetrahydronaphthalene derivative or mibepradil.
- X. Groups 18-20, claim 15, drawn to a method for preventing apoptosis, using an antibody to Cav3.1, Cav3.2 or Cav3.3 isoform or its splicing variant thereof. A method using an antibody to each isoform constitutes a single distinct invention, and not a species.
- XI. Group 21, claim 15, drawn to method for preventing preventing apoptosis, using a T type calcium channel inhibitor, which is a tetrahydronaphthalene derivative or mibepradil.

Applicant elects, with traverse, Group 9, claims 7-12. Reconsideration and withdrawal of the Restriction Requirement, in view of the remarks presented herein, is respectfully requested.

The Examiner stated that “[t]he inventions listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features....” According to Rule 13.2 PCT, the requirement of unity of invention contained in Rule 13.1 PCT is fulfilled “when there is a technical relationship among the inventions involving one or more of the same or corresponding special technical features....” Applicant respectfully submits that the claims 7-15 contain a special technical feature, namely, a T type calcium channel selective inhibitor. Thus, Applicant submits that claims 13-15 should be search and examined along with the claims of Group 9 (claims 7-12).

The Examiner also required an election of species for search purposes if the Applicant elects Group 9. Applicant notes that upon the allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR § 1.141.

In response to the election of species requirement, Applicant elects mibepradil. Applicant believes that claims 7-15 read on the elected species.

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CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at (612) 371-2106 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date September 3, 2010

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 3rd day of September, 2010.

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